

PROPOSED
RIVER

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION)

MEMORANDUM DECISION

NUMBER 55-9477 (a23964))

Change Application Number 55-9477 (a23964), in the names of Ronald L. and Karen W. Wall and the Daniel Irrigation Company, was filed on November 29, 1999, to change the Point of diversion, Place of use, and Nature of use of 2.92 acre-feet of water. Heretofore, the water has been diverted from the Strawberry River at a point located North 900 feet and East 2500 feet from the SW Corner of Section 27; from Bjorkman Hollow at a point located North 1200 feet and East 500 feet from the SW Corner of Section 35, T1S, R12W, USB&M; from Willow Creek at a point located South 300 feet and East 1300 feet from the NW Corner of Section 1; from Hobble Creek at a point located North 4600 feet and West 1000 feet; from an unnamed draw at a point located North 3450 feet and West 800 feet; from an unnamed draw at a point located North 1200 feet and West 1500 feet from the SE Corner of Section 20; from Point of Pines Canyon at a point located North 200 feet and East 600 feet from the SW Corner of Section 28; from Murdock Hollow at a point located South 500 feet and West 1175 feet from the NE Corner of Section 29, T2S, R12W, USB&M. The water has been used for the irrigation of 0.9733 acre from May 1 to October 31 within the service area of the Daniel Irrigation Company.

Hereafter, it is proposed to divert 2.92 acre-feet of water from a well, located South 1300 feet and East 250 feet from the N $\frac{1}{4}$ Corner of Section 15, T6S, R6E, SLB&M. The water is to be used for the irrigation of 0.767 acre from April 1 to October 31, the watering of six cattle or equivalent, and the domestic purposes of one family in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15, T6S, R6E, SLB&M.

The application was advertised in The Wasatch Wave on December 8 and 15, 1999, and was protested by the USA Bureau of Reclamation. In the written protest it is stated that since the application contemplates a surface to groundwater change of source, it should be limited to the amount of water available to the historic right and that quantification is needed to ensure that no increase in depletion occurs due to the change.

The State Engineer has reviewed the change application, the underlying water right, and the protest and notes that water right on which this change application is based is very reliable and always has water. A conservative quantification of the rights yielded an evaluation of 0.8 acre-foot per share. This change application is based on 3.65 shares of stock; the amount of water, 2.92 acre-feet, is correct. The historic water right irrigated 0.9733 acre, which would have consumed 2.01 acre-feet (0.9733 acre X 2.07 acre-feet per acre). The proposed uses, irrigation of 0.767 acre, water for six cattle or equivalent,

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and the domestic needs of one family, will consume 2.02 acre-feet of water (0.767 acre X 2.07 acre-feet per acre + six livestock X 0.028 acre-feet per head + one family X 0.45 acre-feet per family X 59% consumption). The irrigation use will have to be reduced slightly to 0.762 acre.

In evaluating the various elements of the underlying rights, it is not the intention of the State Engineer to adjudicate the extent of these rights, rather to provide sufficient definition of the rights to assure that other vested rights are not impaired by the change and no enlargement occurs. If, in a subsequent action, the court adjudicates that this right is entitled to either more or less water, the State Engineer will adjust the figures accordingly.

It is, therefore, **ORDERED** and Application Number 55-9477 (a23964) is hereby **APPROVED** subject to prior rights and the following conditions:

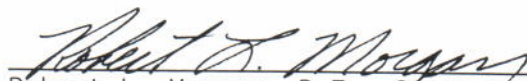
1. This change application is limited to the diversion of 2.92 acre-feet annually and the depletion of 2.01 acre-feet. The uses are limited to the domestic needs of one family, water for six cattle or equivalent, and irrigation of 0.762 acre.
2. A total of 0.9733 acre of irrigation must be taken out of active irrigation from the land serviced by the Daniel Irrigation Company.
3. The applicants shall release a total of 2.92 acre-feet of water to the natural drainage in the Provo River drainage to compensate for this change application. This may be accomplished through the attributes of the Wasatch County Water Efficiency Project in connection with the Central Utah Project.
4. The applicants shall inform the duly appointed river commissioner of how this change application will accomplish Condition Number three above. The river commissioner shall ensure that the water is released for this change application. Any additional costs associated with the administration of this change application for regulation by the river commissioner shall be borne by the applicants.

This Decision is subject to the provisions of Rule R655-6-17 of the Division of Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Decision. However, a Request for Reconsideration is not a prerequisite

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to filing a court appeal. A court appeal must be filed within 30 days after the date of this Decision, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 225th day of February, 2000.


Robert L. Morgan, P.E., State Engineer

RLM:JER:et

Mailed a copy of the foregoing Memorandum Decision this 225th day of February, 2000, to:

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BY: 
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